IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 21ST MARCH, 2007 / 30TH PHALGUNA, 1928

WP(C).No. 1207 of 2007(R)

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PETITIONER:

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DOMINIC MATHEW,
VADAKKEMULANJINAL, NARIANGANAM P.O.

BY ADV. SRI.SHAJI THOMAS PORKKATTIL
SRI.BINU PAUL

RESPONDENTS:

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1. THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES, MEENACHIL, PALA.

2. THE SPECIAL SALE OFFICER,
POOVARANY SERVICE CO-OPERATIVE BANK GROUP,
OFFICE OF THE ASSISTANT REGISTRAR,
MEENACHIL, PALA.

3. THE CHOONDACHERRY SERVICE CO-OPERATIVE
BANK LTD. NO.K 617, RERPESENTED BY ITS SECRETARY,
CHOONDACHERRY, NARIANGANAM P.O.

R1 BY SR.GOVT. PLEADER SRI.P.K.RAVIKRISHNAN.
R2 & R3 BY ADV. SRI.P.C.HARIDAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.1207 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the notice dtd.12.2.2004 issued by R2 to the petitioner.

Ext.P2: Copy of Execution Petition (E.P.40/2006) dtd.10.4.2006 filed before the Munsiff's Court, Pala.

Ext.P3: Copy of Circular dtd.29.6.2006 issued by the Registrar of Co-operative Societies.

Ext.P4: Copy of the application dtd.14.11.2006 submitted by the petitioner.

Ext.P5: Copy of the application dtd.20.11.2006 submitted by the petitioner to the 1st respondent.

RESPONDENTS' EXHIBITS:

Ext.R3A: Copy of the application dtd.14.8.2003 of the petitioner.

Ext.R3B: Copy of the sale sannad dtd.21.10.2005 in favour of R3.

Ext.R3C: Copy of the reply to Ext.P4 dtd.9.12.2006 given to the petitioner.

-True Copy-

P.A.to Judge.

**S.SIRI JAGAN, J.**

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**W.P(C) NO.1207 OF 2007 - R**

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Dated this the 21st day of March, 2007

**J U D G M E N T**

Petitioner is a defaulter in repayment of loan amounts due to the third respondent-Bank. The third respondent-Bank filed arbitration cases and obtained awards in their favour. In execution of the award, the property measuring 1 acre 69 cents belonging to the petitioner has been put in auction and the Bank itself purchased the property. That proceedings are complete and the Bank filed Execution Petition before the Munsiff's Court for effecting delivery of the property which was purchased by them. During the pendency of the Execution Petition for delivery of the property, the petitioner has approached this Court challenging the execution proceedings.

2. However, now the petitioner submits that he may be permitted to pay the amounts due and the Bank may be directed to re-convey the property to the petitioner on payment of the entire amounts due. He also seeks some time to pay off the amounts.

3. Learned counsel for the third respondent-Bank submits that the Bank is willing to re-convey the property to the petitioner on his payment of the amounts due and the Bank is also willing to grant him three months time to pay the same. However, he submits that since the loan account has already been closed, in order to re-convey the property, the petitioner will have to pay interest on the amounts due till the date of payment. Counsel for the petitioner submits that the petitioner undertakes to pay interest up to the date of payment also. However, he seeks a direction to the Bank to consider his claim for reduced rate of interest as available to other loans. In this respect also, the Bank is willing to consider his claim, but only for the period subsequent to the date of sale and not prior to the same. Whatever that be, it is open to the third respondent-Bank to decide that question for which the petitioner may approach the Bank. In view of the concessions and undertakings as recorded above, I dispose of this writ petition with the following directions:-

The third respondent-Bank shall consider the claim of the petitioner for concession in interest etc. and intimate the

petitioner as to the amounts the petitioner has to pay for re-conveyance of the property to the petitioner. On receipt of the said intimation, the petitioner shall pay the entire amount as intimated to him within four months from the date of receipt of the intimation as undertaken by him before me. If the petitioner does not pay the amount as directed, the third respondent would be free to pursue the Execution Petition filed before the Munsiff's Court. If the petitioner complies with the direction, the Bank would withdraw the Execution Petition and effect re-conveyance of the property to the petitioner at the cost of the petitioner. For enabling the parties to work out the above arrangement, the Munsiff's Court, Palai shall adjourn E.P.No.40/2006 pending before it for a period of five months.

**S.SIRI JAGAN,**
**Judge**

Mbs/